

**REMARKS**

**A.) Allowable Subject Matter**

Applicants wish to thank the Examiner for indicating that claim 5 would be allowable if rewritten in independent form.

**B.) The Section 103 Rejections Based on the AAPA and Hojo**

In the Final Office Action claims 1-4 and 6-14 were rejected under 35 U.S.C. §103(a) as being patentable over the Applicants admitted prior art (AAPA) in view of U.S. Patent No. 6,493,350 to Hojo et al. ("Hojo"). Applicants disagree and request reconsideration and withdrawal of the pending rejections.

Each of the claims of the present invention includes, among other things, the features of: assigning a link resource for connecting to a neighboring node by using least one predefined sequence to avoid contention associated with the request, wherein the at least one predefined sequence resulted from a negotiation with a neighboring node prior to receipt of the request.

In the Final Office Action the Examiner admits that the AAPA does not disclose the feature "having neighboring nodes negotiate a predefined sequence to assign a link resource." To make up for this deficiency the Examiner relies on Hojo.

As indicated in Applicants previous response, there is no disclosure or suggestion in Hojo that its so-called "band control units" 1901 or 2204, when they read a "wavelength control table", use a predefined sequence to avoid contention associated with a connection request. That is to say, the predefined sequences in the claims of the present invention are explicitly tied to connection requests. If there be any predefined sequences in Hojo whatsoever, they are wholly unrelated to connection requests.

Accordingly, because the combination of the AAPA and Hojo do not suggest the subject matter of the claims 1-4 and 6-14, Applicants respectfully request reconsideration, withdrawal of the pending rejections and allowance of these claims.

**C.) The Section 103 Rejections Based on the AAPA and Beshai et al.**

Claims 1, 6, 8 and 12 were rejected under 35 U.S.C. §103(a) as being obvious over the AAPA in view of U.S. Patent No. 6,882,799 to Beshai et al. ("Beshai"). Applicants disagree and request reconsideration and withdrawal of these rejections for at least the following reasons.

As pointed out in Applicants' previous responses, each of the claims of the present invention includes the features of, among other things, assigning a linked resource for connecting a neighboring node to another network using at least one predefined sequence to avoid contention associated with the connection request, the sequence resulting from negotiations with a neighboring node prior to receiving a request.

In the Final Office Action the Examiner admits that the AAPA "does not teach a solution to comprise [sic] having neighboring nodes negotiate a predefined sequence to assign a link resource". Applicants note that the Examiner is ignoring the fact that the claims state that the predefined sequence results from a negotiation with a "neighboring node prior to receipt of [a connection] request". There is no disclosure or suggestion in Beshai that its connection request and subsequent selection of a port to establish a connection between an ingress edge module and an egress edge module occurs prior to the receipt of a connection request as in the claims of the present invention.

In response to Applicants argument, the Examiner states, that without providing any supporting documents or evidence, that in the Examiner's opinion one of ordinary skill in the art would recognize there is no appreciable difference between having the negotiation occur prior to

or after the receipt of the connection request. Applicants note that this statement in and of itself does not support a §103 obviousness rejection (MPEP 2144.3).

In order to support a §103 obviousness rejection based on official notice or the Examiner's reliance on common knowledge the Examiner must set forth documentary evidence which demonstrates that the facts asserted to be well known or to be common knowledge are capable of being instantly and unquestionably demonstrated as being well known. Such is not the case, because outside of the disclosure of the present application, there is no teaching or suggestion in any of the references cited by the Examiner of an assignment of a link resource using a least one predefined sequence to avoid contention associated with a connection request, where the predefined sequence resulted from a negotiation between two nodes prior to the receipt of the connection request.

Applicants respectfully request withdrawal of the pending rejections or, alternatively, that the Examiner set forth some documentary evidence which illustrates that the alleged well known aspects of the claims of the present invention are capable of being instantly and unquestionably demonstrated as being well known.

**D.) Entry of Request for Reconsideration After Final Rejection**

Entry of the Request for Reconsideration ("Request") is solicited because the Request: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issues regarding further search and/or consideration; (c) does not present any additional claims without canceling the corresponding number of finally rejected claims; and (d) places the application in better form for appeal, if an appeal is necessary. Entry of the Request is thus respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John E. Curtin at the telephone number of the undersigned below.

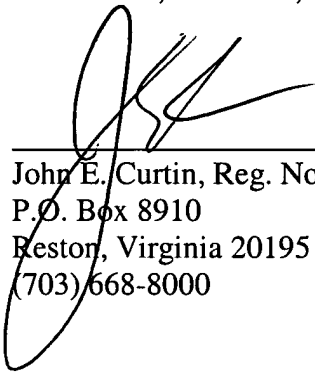
In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 668-8000 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



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